



City of NORFOLK

To City Planning Commission
City of Norfolk, Virginia

March 28, 2013

From: Matthew Simons, *M.S.*
City Planner I

Subject: Amendment to a previously granted Special Exception for an Eating and Drinking Establishment at 5103 Colley Avenue – Chow Gourmet Diner

Reviewed: Leonard M. Newcomb III, *L.M.N.*
Land Use Services Manager

Ward/Superward: 2/6

Approved: *Frank M. Duke*
Frank M. Duke, AICP, Planning Director

Item Number: Continued Item 2

I. **Recommendation:** Staff recommends approval, considering compliance with *Zoning Ordinance* requirements and consistency with the approved plans.

II. **Applicant:** Chow Gourmet Diner by Johnathan Boggs
5103 Colley Avenue

III. **Description:**
This application would allow for Chow Gourmet Diner to amend their existing Special Exception to offer alcoholic beverages until 2:00 a.m. to their customers.

IV. **Analysis**

Plan Analysis

- The *General Plan* designates this site as Commercial/Office.
 - The proposed General Plan, *plaNorfolk2030*, designates this site as Commercial.
- The *Central Hampton Boulevard Area Plan* designates this site as Office, Research, Retail and/or Multifamily Residential.
- The establishment is consistent with each of these adopted plans.

Zoning Analysis

- The site is located in a C-2 (Corridor Commercial) district which permits the use by Special Exception.
- The proposed use and extended hours meets all *Zoning Ordinance* requirements for Eating and Drinking Establishments.

	Current	Proposed
Hours of Operation and for the Sale of Alcohol	11:00 a.m. until 11:00 p.m., Sunday through Thursday 11:00 a.m. until 12:00 midnight, Friday and Saturday	11:00 a.m. until 2:00 a.m., Seven days a week
Seating Capacity	78 seats indoors 26 seats outdoors 113 total occupancy	Same

- Special Exception history

City Council Approval	Applicant	Changes
March 2010	Tanner's Creek Seafood	Entertainment Special Exception
June 2012	Chow Gourmet Diner	Initial application for a new Eating and Drinking Special Exception
Pending	Chow Gourmet Diner	Modification to hours

- The attached conditions ensure compliance with *Zoning Ordinance* requirements.

Traffic Analysis

- Since no increase in seating is being proposed for the existing restaurant at this site, no additional trips are projected even though the hours of operation would be extended under the proposed special exception.
- The site is located near frequent bus service.
- The additional hours will not generate a demand for more parking.

V. Financial Impact

- The property owner is current on real estate taxes.
- The longer hours should generate more sales, which should result in increased tax revenue.

VI. Environmental

- The establishment is located along north Colley Avenue, within the Highland Park neighborhood and to the west of Colonial Place, which is developed with a mix of commercial and residential uses.
- The establishment is adjacent to a single-family use in a single-family zoning district; therefore the establishment will not be permitted to have amplified sound outside after 10pm during the week and 11pm on the weekends.
- Since the establishment has been open there have been five (5) calls for service with no arrests made.

- A letter of support was received from the Highland Park Civic League.
 - The letter requested an 18-month trial period for the later hours.

VII. Community Outreach/Notification

- Legal notice was posted on the property on January 22.
- Letters were mailed to the Highland Park and Colonial Place Civic League Presidents on February 1.
- Letters were mailed to all property owners within 300 feet of the property on February 12.
- Notice was sent to the civic leagues by the Department of Communications on February 12.
- Legal notification was placed in *The Virginian-Pilot* on February 14 and 21.

VIII. Coordination/Outreach

This report has been coordinated with the Department of Planning and Community Development and the City Attorney's Office.

Supporting Material from the Department of Planning and Community Development:

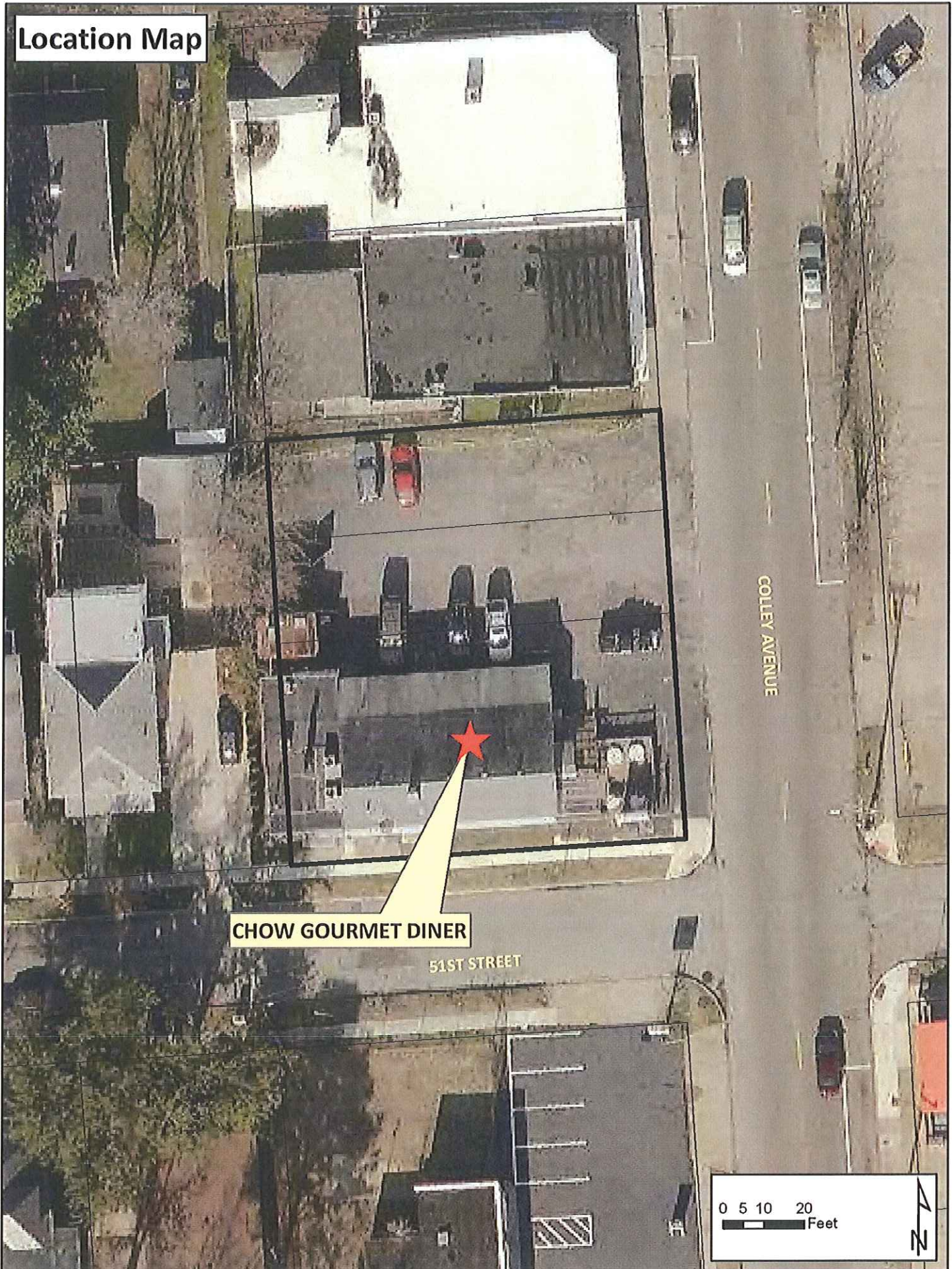
- Proposed Conditions
- Location Map
- Zoning Map
- Application
- Floor Plan
- Survey
- Letters to the Civic Leagues
- Letter from the Highland Park Civic League

Chow Gourmet Diner – 5103 Colley Avenue
Eating and Drinking Establishment Conditions

- (a) The hours of operation for the facility and for the sale of alcoholic beverages shall be from 11:00 a.m. until 2:00 a.m., the following morning, seven days a week. No use of the facility outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the facility shall not exceed 78 seats indoors, 26 seats outdoors, and the total occupant capacity, including employees, shall not exceed 113 people. The use authorized by this Special Exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.
- (c) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (d) The facility shall maintain a current, active business license at all times while in operation.
- (e) The facility shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the facility's staff and shall not be permitted within any restroom.
- (g) During all hours of operation, the facility operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (h) A menu shall be provided containing an assortment of foods which shall be made available at all times the restaurant is open. A food menu and full dining service shall be available at the bar.

- (i) The layout of the establishment shall adhere to the specifications of the floor plan attached hereto and marked as "Exhibit B."
- (j) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (k) Any requirements, limitations, or restrictions imposed by the Virginia ABC Commission or by any provision of Virginia law upon this establishment which are more stringent than the requirements of this Special Exception shall be effective and binding. Any violation of such requirement, limitation, or restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (l) Neither the facility nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event at the facility.
- (m) A copy of this Adult Use Special Exception ordinance and Exhibits shall be available on site at all times for inspection, and a notice indicating that this Adult Use Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Location Map



CHOW GOURMET DINER

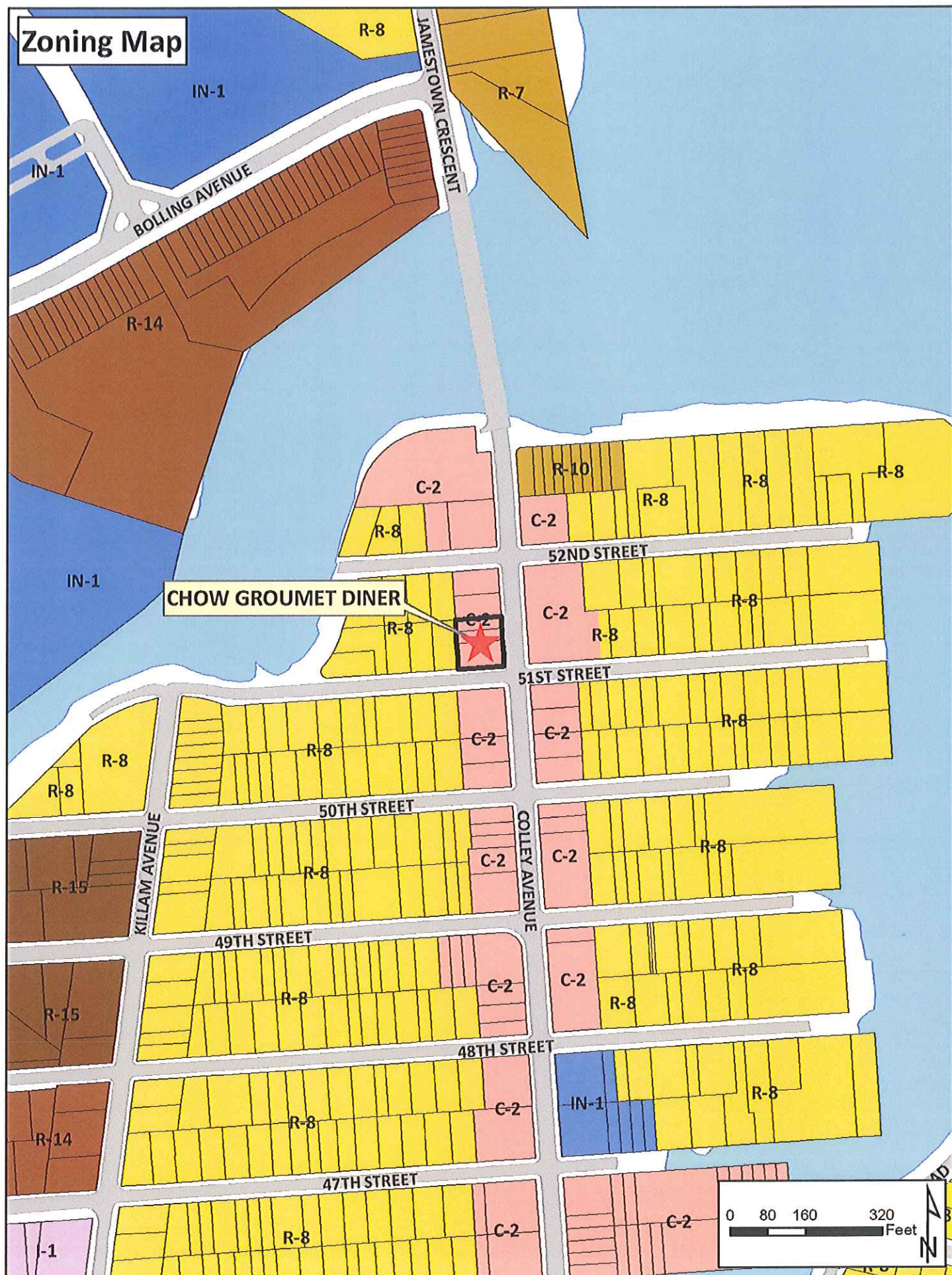
51ST STREET

COLLEY AVENUE

0 5 10 20
Feet



Zoning Map





City of Norfolk

APPLICATION ADULT USE SPECIAL EXCEPTION EATING AND DRINKING ESTABLISHMENT

Date of Application: 1/4/13

DESCRIPTION OF PROPERTY

Property location: (Street Number) 5103 (Street Name) Colley Ave, Norfolk

Existing Use of Property Existing restaurant

Current Building Square Footage 2780 approx.

Proposed Use Restaurant

Proposed Building Square Footage 2780 approx.

Trade Name of Business (If applicable) Grassy Creek Inc. dba Chow Gourmet Diner

APPLICANT/ PROPERTY OWNER

1. Name of applicant: (Last) Boggs (MI) E
(First) Johnathan

Mailing address of applicant (Street/P.O. Box): 1609 Helena Ave

(City) Norfolk (State) VA (Zip Code) 23505

Daytime telephone number of applicant (757) 576-8336 Fax number (757) 440-3778

E-mail address of applicant: jboggs2@hotmail.com

2. Name of property owner: (Last) Schlegel (MI) E (First) Robert

Mailing address of property owner (Street/P.O. box): 841 W. 45th St.

(City) Norfolk (State) VA (Zip Code) 23508

Daytime telephone number of owner (757) 287-3667 Fax number () _____

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

CIVIC LEAGUE INFORMATION

Civic League contact: Highland Park

Date(s) contacted: _____

Ward/Super Ward information: 2 - Wibley, 6 - Winn

REQUIRED ATTACHMENTS

- ✓ Check for \$265.00 made payable to Norfolk City Treasurer.
- ✓ 2 8½x14 copies of a survey or site plan drawn to scale showing:
 - Existing and proposed building structures
 - Driveways
 - Parking
 - Landscaping
 - Property lines (see attached example).
- ✓ 2 8½x14 copies of a floor plan drawn to scale showing seats, tables, bar, dance floor area, disc jockey area, and ingress and egress (see attached example).
- ✓ Completed Exhibit A, Description of Operations.
- ✓ Please provide a brief description of the business (i.e., # of employees, current locations, type of restaurant, etc...).

CERTIFICATION:

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

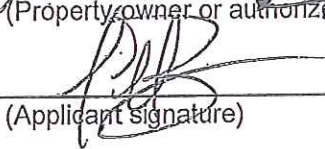
SIGNED:



(Property owner or authorized agent signature)

04/12/2012
(Date)

SIGNED:



(Applicant signature)

04/12/2012
(Date)



City of Norfolk

EXHIBIT "A" Description of Operations Eating and Drinking Establishment

Date of Application 1/4/13

Trade name of business: Graffy Creek Inc. dba Chow Gourmet Diner

Address of business: 5103 Colley Ave, Norfolk, VA 23508

Name(s) of business owner(s)* Johnathan Boggs, Tom Pittman, Stephen Stockwell

Name(s) of property owner(s)* Robert E. Schlegel & Son, LLC - Robert E. Schlegel

Name(s) of business manager(s)/operator(s): Johnathan Boggs, Tom Pittman, Stephen Stockwell

Daytime telephone number: (757) 576-8336

* If business or property owner is an LLC or Corporation, all partners must be listed.

1. Proposed Hours of Operation:

Facility		Alcoholic Beverage Sales	
Weekday	From <u>11am</u> To <u>2am</u>	Weekday	From <u>11am</u> To <u>2am</u>
Friday	From <u>11am</u> To <u>2am</u>	Friday	From <u>11am</u> To <u>2am</u>
Saturday	From <u>11am</u> To <u>2am</u>	Saturday	From <u>11am</u> To <u>2am</u>
Sunday	From <u>11am</u> To <u>2am</u>	Sunday	From <u>11am</u> To <u>2am</u>

2. Will indoor or outdoor entertainment be provided?
(Entertainment consists of anything more than one, unamplified musician)

☐ Yes (Different application required) ☒ No

3. Type of alcoholic beverage applied for:

☒ Beer ☒ Wine ☒ Mixed Beverage

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

Exhibit A
Eating and Drinking Establishment
Page 2

4. Will video games, pool tables, game boards or other types of entertainment be provided?
☐ Yes ☒ No

4a. If yes, please describe type and number of each game to be provided:

5. Will patrons ever be charged to enter the establishment?
☐ Yes ☒ No

5a. If yes, why:

5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
☐ Yes ☒ No

6a. If yes, explain:

Exhibit A
Eating and Drinking Establishment
Page 3

7. Will a third party (promoter) be permitted to lease, let or use the establishment?

☐ Yes ☒ No

7a. If yes, explain:

8. Type of ABC license applied for (check all applicable boxes):

☒ On-Premises ☐ Off-Premises (second application required)

9. Will there ever be a minimum age limit?

☐ Yes ☒ No

10. Will there be smoking in the establishment?

☐ Yes ☒ No

11. Additional comments/description/operational characteristics:

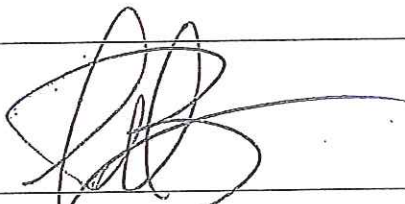

Signature of Applicant

Exhibit A
Eating and Drinking Establishment
Floor Plan(s)

1. Seating (Approved floor plan must be attached)

a. Indoor

Number of seats 57 Number of bar seats 21
(not including bar seats) Number of tables 14

b. Outdoor

Number of seats 26 Number of tables 8

c. Number of employees 9

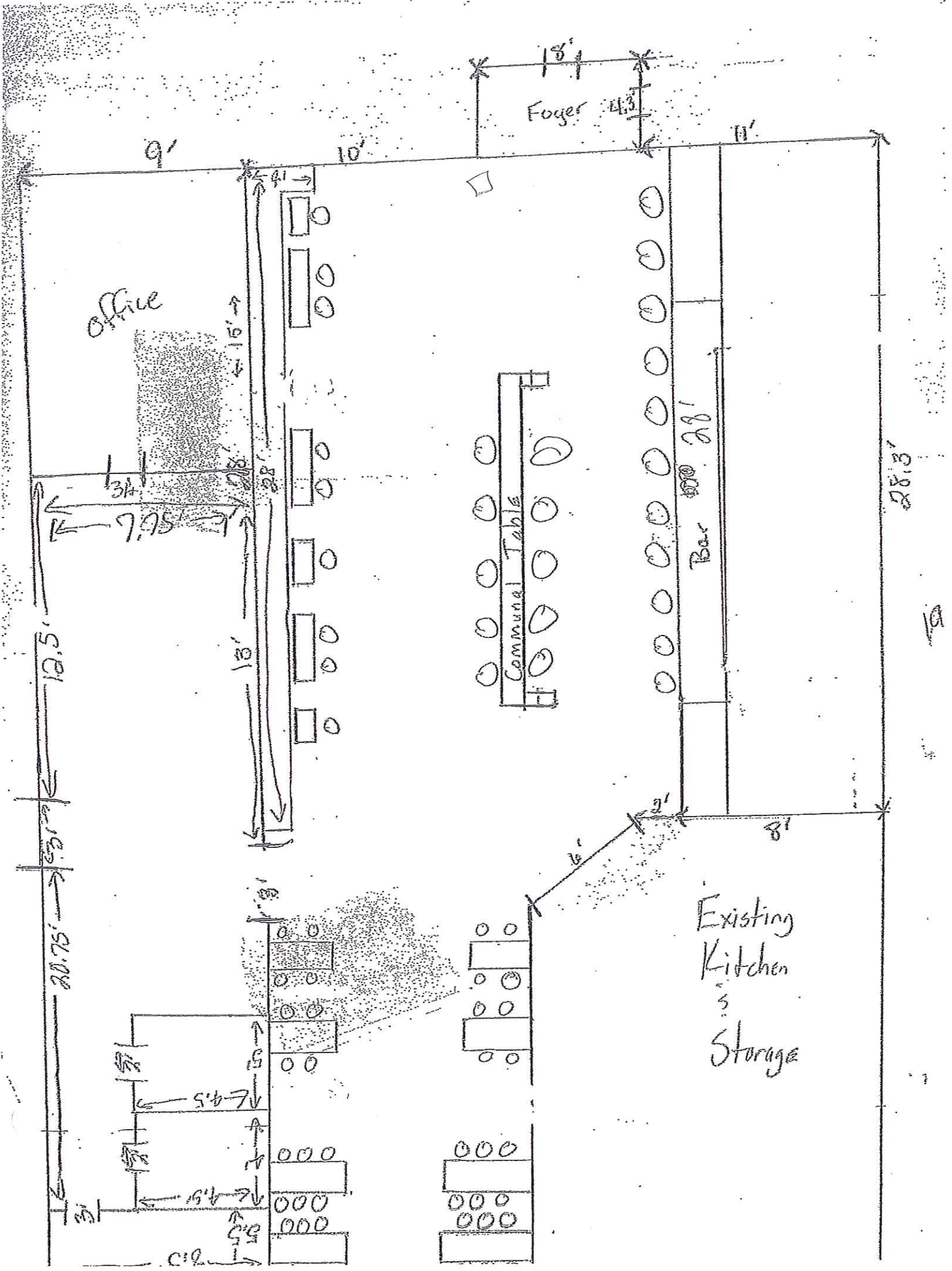
Total Occupancy (Indoor and Outdoor and employees) 113

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

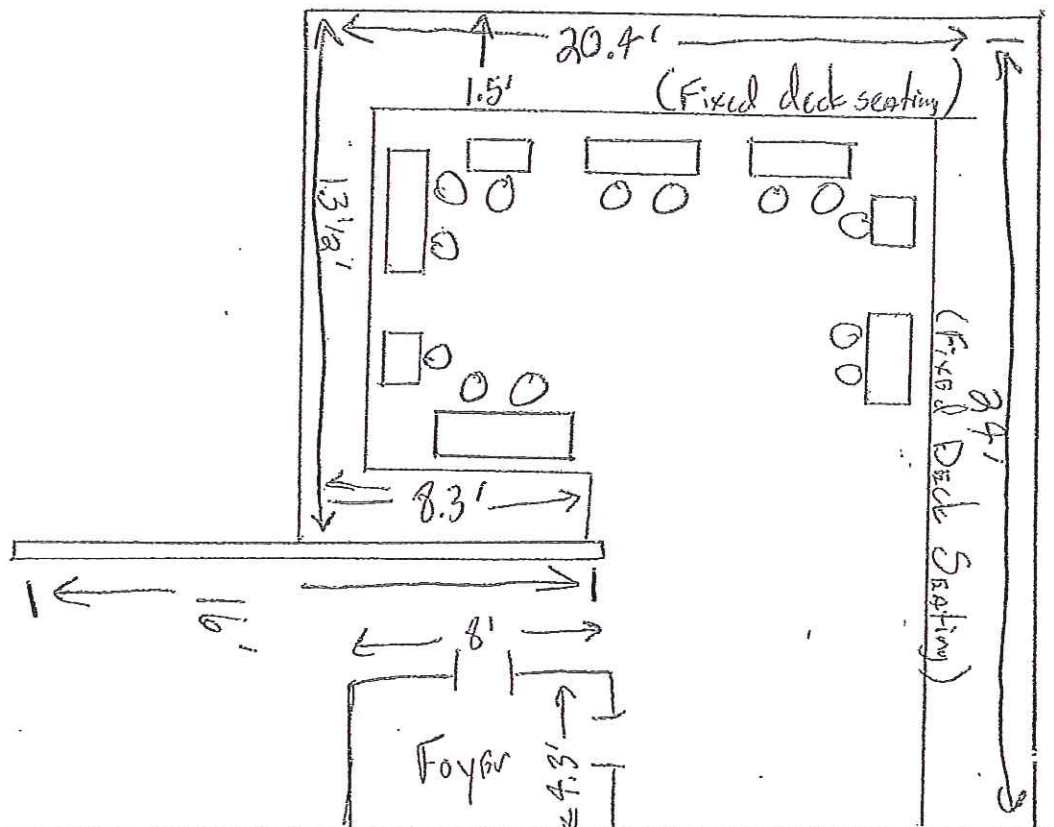
6 2-Tops 12 4-Tops 4 6 Tops

Other:

Booths & Tables



Existing Patio





City of NORFOLK

February 1, 2013

Dave McDonald
President, Colonial Place/Riverview Civic League
619 Mayflower Road
Norfolk, VA 23508

Dear Mr. McDonald:

The Planning Department has received an application from Jonathan Boggs to amend a previously granted Special Exception to operate an Eating and Drinking Establishment located at 5103 Colley Avenue by expanding the hours of operation. This item is tentatively scheduled for the February 28, 2013, City Planning Commission public hearing.

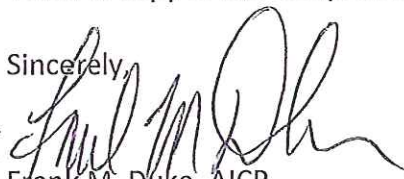
Summary

This request would allow Chow Gourmet Diner to continue offering alcoholic beverages to their patrons with expanded hours as follows:

	Current	Proposed
Hours of Operation and Sale of Alcohol	11:00 a.m. until 11:00 p.m., Sunday through Thursday 11:00 a.m. until 12:00 midnight, Friday and Saturday	11:00 a.m. until 2:00 a.m., Seven days a week
Seating Capacity	78 seats indoor 26 seats outdoor 113 total capacity	Same

If you would like additional information on the request, you may contact the applicant at (757) 576-8336 or you may telephone Matthew Simons on my staff at (757) 664-4750. A copy of the complete application is enclosed.

Sincerely,



Frank M. Duke, AICP
Planning Director

cc: Vanessa Seals, Neighborhood Development Specialist



City of NORFOLK

February 1, 2013

T. Dale Ryder
President, Highland Park Civic League
824 West 49th Street
Norfolk, VA 23508

Dear Mr. Ryder:

The Planning Department has received an application from Jonathan Boggs to amend a previously granted Special Exception to operate an Eating and Drinking Establishment located at 5103 Colley Avenue by expanding the hours of operation. This item is tentatively scheduled for the February 28, 2013, City Planning Commission public hearing.


Summary

This request would allow Chow Gourmet Diner to continue offering alcoholic beverages to their patrons with expanded hours as follows:

	Current	Proposed
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Seating Capacity	78 seats indoor 26 seats outdoor 113 total capacity	Same

If you would like additional information on the request, you may contact the applicant at (757) 576-8336 or you may telephone Matthew Simons on my staff at (757) 664-4750. A copy of the complete application is enclosed.

Sincerely,



Frank M. Duke, AICP
Planning Director

cc: Vanessa Seals, Neighborhood Development Specialist

February 12, 2013

Mathew Simons
Department of Planning
City of Norfolk
810 Union Street, Room 508
Norfolk, VA 23510

Re: Graffy Creek Inc. d/b/a Chow Gourmet Diner
Application to Amend Previously Granted Special Exception

Dear Mr. Simons:

Several months ago, John Boggs came to the Highland Park Civic League meeting to discuss his plans to amend his Application for Adult Use Special Exception – Eating and Drinking Establishment on behalf of Graffy Creek Inc. d/b/a Chow Gourmet Diner. We have recently received a copy of his Application from your office and understand that the matter is tentatively scheduled for a Planning Commission public hearing on February 28, 2013.

During our discussions with Mr. Boggs, the civic league did not have any objection to extending his hours of operation and sale of alcohol provided it is first granted for a one-year probationary period. Members have expressed concerns that the extended hours may have a negative impact on surrounding residences. A probationary period will allow the civic league to evaluate any effects the extended hours may have before a permanent special exception is granted.

Our understanding is that Mr. Boggs understands our concerns and is agreeable to the initial probationary period.

Thank you for your consideration.

T. Dale Ryder, President
Highland Park Civic League
824 W. 49th Street
Norfolk, VA 23508
highlandpark_cl@yahoo.com